

CHAPTER 202

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 22-070

BY SENATOR(S) Bridges, Buckner, Fields, Moreno, Zenzinger;
also REPRESENTATIVE(S) McLachlan and McCluskie, Bacon, Barnett, Bird, Boesenecker, Duran, Exum, Froelich, Herod,
Hooton, Jodeh, Kipp, Lindsay, Lontine, McCormick, Ricks, Titone, Young.

AN ACT

**CONCERNING LICENSED PERSONNEL PERFORMANCE EVALUATIONS IN PUBLIC SCHOOLS, AND, IN
CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 22-9-103, **amend** the introductory portion and (1.5) as follows:

22-9-103. Definitions. As used in this ~~article~~ ARTICLE 9, unless the context otherwise requires:

(1.5) "Licensed personnel" or "LICENSED PERSON" ~~means any persons~~ A PERSON WHO IS employed to instruct students, TO PROVIDE PROFESSIONAL SERVICES TO STUDENTS IN DIRECT SUPPORT OF THE EDUCATION INSTRUCTIONAL PROGRAM, or to administer, direct, or supervise the instructional program in a school in the state AND who ~~hold~~ HOLDS a valid license or authorization pursuant to the provisions of article 60.5 of this ~~title~~ TITLE 22.

SECTION 2. In Colorado Revised Statutes, **amend** 22-9-104 as follows:

22-9-104. State model licensed personnel performance evaluation system - department - state board - powers and duties - rules. (1) The state board shall promulgate guidelines relating to the planning, development, implementation, and assessment of a STATE MODEL licensed personnel performance evaluation system that may be ~~followed~~ ADOPTED by each school district and board of cooperative services within the state. In promulgating said guidelines, the state board shall allow each school district and board of cooperative services to involve and consult with the licensed personnel and citizens of the school district or districts. Each school

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

district and board of cooperative services ~~shall have~~ HAS the flexibility needed to develop a system of personnel performance evaluation that is specifically designed to meet the individual needs of that school district ~~and~~ OR board of cooperative services.

(1.5) TO ASSIST SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE SERVICES IN IMPLEMENTING THE STATE MODEL LICENSED PERSONNEL PERFORMANCE EVALUATION SYSTEM AND IN DEVELOPING AND IMPLEMENTING LOCAL SYSTEMS OF PERSONNEL PERFORMANCE EVALUATION, BY THE BEGINNING OF THE 2023-24 SCHOOL YEAR, THE DEPARTMENT SHALL:

(a) CREATE A MODIFIED RUBRIC SPECIFICALLY FOR MEASURING THE PERFORMANCE OF A LICENSED PERSON WHO HAS RECEIVED A RATING OF HIGHLY EFFECTIVE FOR AT LEAST THREE CONSECUTIVE SCHOOL YEARS AND PROVIDE GUIDELINES FOR FOCUSING ON PROFESSIONAL GROWTH AND CAREER DEVELOPMENT IN EVALUATING LICENSED PERSONNEL WHO ARE CONSISTENTLY RATED HIGHLY EFFECTIVE;

(b) WORK WITH SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE SERVICES TO CREATE AND MAKE PUBLICLY AVAILABLE RUBRICS FOR MEASURING THE PERFORMANCE OF LICENSED PERSONNEL IN A LIMITED NUMBER OF SPECIALIZED TEACHER OR PRINCIPAL ROLES;

(c) PROVIDE EVALUATOR TRAINING AT NO COST TO SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE SERVICES TO ENSURE THAT ALL EVALUATORS HAVE THE SKILLS NECESSARY TO OBSERVE AND EVALUATE LICENSED PERSONNEL WITH FIDELITY TO THE LICENSED PERSONNEL PERFORMANCE EVALUATION SYSTEM IMPLEMENTED BY THE EVALUATOR'S SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES;

(d) PROVIDE GUIDELINES FOR CONSIDERING A LICENSED PERSON'S PROFESSIONAL GROWTH ACHIEVEMENTS, SUCH AS ATTAINMENT OF NATIONAL BOARD CERTIFICATION OR FULFILLMENT OF DIFFERENTIATED PROFESSIONAL ROLES, AS PROOF THAT THE LICENSED PERSON MEETS ONE OR MORE OF THE QUALITY STANDARDS, IN LIEU OF SOME OR ALL OF THE ELEMENTS THAT DEMONSTRATE ATTAINMENT OF THE QUALITY STANDARDS; AND

(e) PROVIDE INFORMATION CONCERNING BEST PRACTICES IN METHODS OF CONDUCTING LICENSED PERSONNEL EVALUATIONS, INCLUDING INNOVATIVE METHODS FOR OBSERVATION.

(2) The state board shall:

(a) Provide training and leadership and give technical assistance to school districts and boards of cooperative services in the development of a licensed personnel performance evaluation system;

(b) Work and cooperate with the state's universities and colleges that have teacher, principal, or administrator education programs to ~~assure~~ ENSURE that principals and administrators ~~having~~ WHO HAVE evaluation responsibilities will receive adequate education and training that meets the requirements specified in

section 22-9-108 and will enable them to make thorough, credible, fair, and professional quality evaluations of all licensed personnel whom those principals or administrators may be responsible for evaluating;

(c) ~~Pursuant to section 22-9-105.5, work with the council to~~ Promulgate rules concerning the planning, development, implementation, and assessment of ~~a THE STATE MODEL LICENSED PERSONNEL PERFORMANCE EVALUATION system to evaluate~~ the effectiveness of licensed personnel;

(d) Repealed.

(e) (Deleted by amendment, L. 2009, (SB 09-163), ch. 293, p. 1532, § 17, effective May 21, 2009.)

(f) ~~(f) On or before September 1, 2011, the state board, Pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., shall promulgate rules with regard to the issues specified in section 22-9-105.5 (10) using the recommendations from the council. If the council fails to make recommendations to the state board by March 1, 2011, with regard to one or more of the issues specified in section 22-9-105.5 (10), the state board, on or before September 1, 2011, shall promulgate rules concerning any issues in section 22-9-105.5 (10) that the council did not address. In promulgating rules pursuant to this paragraph (f), the state board shall conform to the timeline set forth in section 22-9-105.5~~ SECTION 22-9-105.5 (3)(a) TO (3)(h).

~~(H) On or before February 15, 2012, the general assembly shall review the rules promulgated pursuant to subparagraph (f) of this paragraph (f), in a bill that is separate from the annual rule review bill introduced pursuant to section 24-4-103 (8)(d), C.R.S., and in accordance with the criteria and procedures specified in section 24-4-103 (8)(a) and (8)(d), C.R.S.; except that the general assembly reserves the right to repeal individual rules in the rules promulgated by the state board. If one or more rules are not approved by the general assembly pursuant to this subparagraph (H), the state board shall promulgate emergency rules pursuant to section 24-4-103 (6), C.R.S., on such issue or issues and resubmit to the general assembly on or before May 1, 2012. The general assembly shall review the emergency rules promulgated according to the process outlined in this subparagraph (H).~~

(3) FOR EVALUATIONS COMPLETED FOR THE 2023-24 SCHOOL YEAR AND EACH SCHOOL YEAR THEREAFTER, THE STATE BOARD SHALL PROMULGATE RULES AS NECESSARY TO ENSURE THAT, UNDER THE STATE MODEL LICENSED PERSONNEL PERFORMANCE EVALUATION SYSTEM AND A LOCAL SYSTEM OF PERSONNEL PERFORMANCE EVALUATION:

(a) THIRTY PERCENT OF A TEACHER'S OR PRINCIPAL'S EVALUATION IS DETERMINED BY THE ACADEMIC GROWTH OF THE TEACHER'S STUDENTS OR THE STUDENTS ENROLLED IN THE PRINCIPAL'S SCHOOL, AS APPLICABLE, AND THE REMAINDER IS BASED ON THE TEACHER'S OR PRINCIPAL'S ATTAINMENT OF THE QUALITY STANDARDS;

(b) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3)(c) OF THIS SECTION, OF

THE THIRTY PERCENT OF A TEACHER'S OR PRINCIPAL'S EVALUATION THAT IS BASED ON STUDENT ACADEMIC GROWTH, UP TO TEN PERCENT MAY BE BASED ON MEASURES OF COLLECTIVE STUDENT ACADEMIC GROWTH THAT ARE BASED ON THE PERFORMANCE OF ALL STUDENTS ENROLLED AT A PARTICULAR GRADE LEVEL WITHIN THE SCHOOL IN WHICH THE TEACHER OR PRINCIPAL IS EMPLOYED OR THE PERFORMANCE OF ALL STUDENTS ENROLLED IN THE SCHOOL IN WHICH THE TEACHER OR PRINCIPAL IS EMPLOYED, BUT A TEACHER'S OR PRINCIPAL'S EVALUATION MUST NOT INCLUDE MEASURES OF COLLECTIVE STUDENT ACADEMIC GROWTH THAT ARE BASED ON THE PERFORMANCE OF STUDENTS WHO ARE NOT ENROLLED IN THE SCHOOL IN WHICH THE TEACHER OR PRINCIPAL IS EMPLOYED; AND

(c) THE EVALUATION OF A LICENSED PERSON WHO HAS BEEN EMPLOYED BY A SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES FOR ONE SCHOOL YEAR OR LESS MUST NOT INCLUDE DATA THAT WAS CREATED PRIOR TO THE DATE ON WHICH THE LICENSED PERSON COMMENCED EMPLOYMENT WITH THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES.

SECTION 3. In Colorado Revised Statutes, 22-9-106, **amend** (1) introductory portion, (1)(c) introductory portion, (1)(c)(II), (1)(d) introductory portion, (1)(d)(V)(B), (1)(e)(II), (1)(f), (1.5)(a), (2.5)(b)(I), (3), (4), and (7) introductory portion; **repeal** (3.5)(b)(III); and **add** (1)(e)(III) and (1)(e)(IV) as follows:

22-9-106. Local boards of education - duties - performance evaluation system - compliance - rules - repeal. (1) All school districts and boards of cooperative services that employ licensed personnel ~~as defined in section 22-9-103 (1.5)~~; shall adopt a written system to evaluate the employment performance of school district and board of cooperative services licensed personnel, including all teachers, principals, and administrators, with the exception of licensed personnel employed by a board of cooperative services for a period of six weeks or less. In developing the licensed personnel performance evaluation system and any amendments thereto, the local board and board of cooperative services shall comply with ~~the provisions of~~ subsection (1.5) of this section and shall consult with administrators, principals, and teachers employed within the district or participating districts in a board of cooperative services, parents, and the school district licensed personnel performance evaluation council or the board of cooperative services personnel performance evaluation council created pursuant to section 22-9-107. The performance evaluation system ~~shall~~ **must** address all of the performance standards established by rule of the state board and adopted by the general assembly pursuant to section 22-9-105.5, and ~~shall~~ **must** contain, but need not be limited to, the following information:

(c) The frequency and duration of the evaluations, which ~~shall~~ **must** be on a regular basis and of such frequency and duration as to ensure the collection of a sufficient amount of data from which reliable conclusions and findings may be drawn. At a minimum, the performance evaluation system ~~shall~~ **must** ensure that:

(II) Nonprobationary teachers receive at least one observation each ACADEMIC year and one evaluation that results in a written evaluation report pursuant to subsection (3) of this section ~~every three years; except that, beginning with the 2012-13 academic year, nonprobationary teachers shall receive a written evaluation report pursuant to subsection (3) of this section~~ each academic year according to the

performance standards established by rule of the state board and adopted by the general assembly pursuant to section 22-9-105.5. Nonprobationary teachers ~~shall~~ MUST receive the written evaluation report at least two weeks before the last class day of the school year.

(d) The purposes of the evaluation, which ~~shall~~ MUST include but need not be limited to:

(V) (B) Measuring the level of effectiveness of all licensed personnel within the school district. ~~This sub-subparagraph (B) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.~~

(e) (II) The standards set by the local board for effective performance for licensed personnel and the criteria to be used to determine whether the performance of each licensed person meets ~~such~~ THE standards and other criteria for evaluation for each licensed personnel position evaluated. One of the standards for measuring teacher effectiveness ~~shall~~ MUST be directly related to classroom instruction and ~~shall~~ MUST require that ~~at least fifty~~ THIRTY percent of the evaluation is determined by the academic growth of the teacher's students. THE REMAINDER OF THE EVALUATION MUST BE BASED ON ATTAINMENT OF THE QUALITY STANDARDS. The district accountability committee shall provide input and recommendations concerning the assessment tools used to measure student academic growth as it relates to teacher evaluations. The standards ~~shall~~ MUST include multiple measures of student performance in conjunction with student growth expectations. For the purposes of measuring effectiveness, expectations of student academic growth ~~shall~~ MUST take into consideration diverse factors, including but not limited to special education, student mobility, and classrooms with a student population in which ninety-five percent meet the definition of high-risk student as defined in section 22-7-604.5 (1.5). The performance evaluation system ~~shall~~ MUST also ensure that the standards and criteria are available in writing to all licensed personnel and are communicated and discussed by the person being evaluated and the evaluator prior to and during the course of the evaluation. ~~This subparagraph (II) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.~~

(III) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(e)(IV) OF THIS SECTION, FOR PERFORMANCE EVALUATIONS COMPLETED FOR THE 2023-24 SCHOOL YEAR AND SCHOOL YEARS THEREAFTER, OF THE THIRTY PERCENT OF A TEACHER'S EVALUATION THAT IS BASED ON STUDENT ACADEMIC GROWTH, UP TO TEN PERCENT MAY BE BASED ON MEASURES OF COLLECTIVE STUDENT ACADEMIC GROWTH THAT ARE BASED ON THE PERFORMANCE OF ALL STUDENTS ENROLLED AT A PARTICULAR GRADE LEVEL WITHIN THE SCHOOL IN WHICH THE TEACHER IS EMPLOYED OR THE PERFORMANCE OF

ALL STUDENTS ENROLLED IN THE SCHOOL IN WHICH THE TEACHER IS EMPLOYED, BUT A TEACHER'S EVALUATION MUST NOT INCLUDE MEASURES OF COLLECTIVE STUDENT ACADEMIC GROWTH THAT ARE BASED ON THE PERFORMANCE OF STUDENTS WHO ARE NOT ENROLLED IN THE SCHOOL IN WHICH THE TEACHER IS EMPLOYED.

(IV) FOR PERFORMANCE EVALUATIONS COMPLETED FOR THE 2023-24 SCHOOL YEAR AND SCHOOL YEARS THEREAFTER, THE EVALUATION OF A LICENSED PERSON WHO HAS BEEN EMPLOYED BY A SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES FOR ONE SCHOOL YEAR OR LESS MUST NOT INCLUDE DATA THAT WAS CREATED PRIOR TO THE DATE ON WHICH THE LICENSED PERSON COMMENCED EMPLOYMENT WITH THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES.

(f) The methods of evaluation, which ~~shall~~ MUST include, but ~~shall not be~~ ARE NOT limited to, direct observations by the evaluator and a process of systematic data-gathering. SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE SERVICES ARE ENCOURAGED TO EXPERIMENT, WITH THE AGREEMENT OF THEIR SCHOOL DISTRICT PERSONNEL PERFORMANCE EVALUATION COUNCILS, WITH INNOVATIVE METHODS OF OBSERVATION, WHICH MAY INCLUDE OBSERVATIONS BY MENTORS OR TEACHING COACHES, PEERS, DEPARTMENT LEADERS, AND VIDEO OR DIGITAL RECORDING; AND A PEER ASSISTANCE AND REVIEW MODEL THAT ALLOWS LICENSED PERSONNEL TO BE EVALUATED BY PEERS WHO ARE LICENSED IN THE SAME FIELD AS THE LICENSED PERSON BEING EVALUATED AND, IF FEASIBLE, HAVE MORE THAN ONE YEAR OF EXPERIENCE.

(1.5)(a) A local board or board of cooperative services may adopt the state model LICENSED PERSONNEL performance evaluation system established by the rules promulgated by the state board pursuant to section 22-9-105.5 or may develop its own local licensed personnel evaluation system that complies with the requirements established pursuant to this section and the rules promulgated by the state board. If a school district or board of cooperative services develops its own local licensed personnel evaluation system, the local board or board of cooperative services or any interested party may submit to the department, or the department may solicit and collect, data related to said personnel evaluation system for review by the department.

(2.5) (b) (I) The council shall actively participate with the local board in developing written standards for evaluation that clearly specify performance standards and the quality standards and the criteria to be used to determine whether the performance of each licensed person meets such standards pursuant to ~~paragraph (e) of subsection (1)~~ SUBSECTION (1)(e) of this section. ~~Except as provided in subparagraph (II) of this paragraph (b), this paragraph (b) takes effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.~~

(3)(a) An evaluation report shall be issued upon the completion of an evaluation made pursuant to this section and ~~shall~~ MUST:

~~(a)~~ (I) Be in writing;

~~(b)~~ (II) Contain a written improvement plan that ~~shall be~~ is specific as to what improvements, if any, are needed in the performance of the licensed personnel and ~~shall clearly set~~ CLEARLY SETS forth recommendations for improvements, including recommendations for additional education and training during the ~~teacher's or the principal's~~ LICENSED PERSON'S license renewal process;

~~(c)~~ (III) Be specific as to the strengths and weaknesses in the performance of the individual being evaluated;

~~(d)~~ (IV) Specifically identify when a direct observation was made;

~~(e)~~ (V) Identify data sources;

~~(f)~~ (VI) Be discussed and be signed by the evaluator and the person being evaluated, each to receive a copy of the report. The signature on the report of any person ~~shall not be construed to~~ DOES NOT indicate agreement with the information contained in the report. If the person being evaluated disagrees with any of the conclusions or recommendations made in the evaluation report, the person may attach any written explanation or other relevant documentation that the person deems necessary.

~~(g)~~ (VII) Be reviewed by a supervisor of the evaluator, whose signature ~~shall~~ MUST also appear on said report.

(b) A SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES SHALL COMPLETE THE WRITTEN EVALUATIONS FOR ALL LICENSED PERSONNEL EMPLOYED BY THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES AND SHALL REPORT THE FINAL PERFORMANCE RATINGS FOR ALL LICENSED PERSONNEL WHO WERE EVALUATED TO THE DEPARTMENT NO LATER THAN OCTOBER 15 OF THE SCHOOL YEAR FOLLOWING THE SCHOOL YEAR FOR WHICH THE EVALUATIONS ARE COMPLETED.

~~(3.5) (b) (III) This paragraph (b) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.~~

(4) (a) Except as provided in ~~paragraph (b) of this subsection (4), no person shall~~ SUBSECTION (4)(b) OF THIS SECTION, A PERSON SHALL NOT be responsible for the evaluation of licensed personnel unless the person has a principal or administrator license issued pursuant to article 60.5 of this ~~title~~ TITLE 22, or is a designee of a person with a principal or administrator license, and has received education and training in evaluation skills PROVIDED OR approved by the department of education that will enable ~~him or her~~ THE PERSON to make fair, professional, and credible evaluations of the personnel whom ~~he or she~~ THE PERSON is responsible for evaluating. ~~No person shall~~ PURSUANT TO SECTION 22-9-104 (1.5), THE

DEPARTMENT SHALL MAKE AVAILABLE AT NO COST TO EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE SERVICES TRAINING FOR PERSONS WHO ARE RESPONSIBLE FOR EVALUATING LICENSED PERSONNEL. A PERSON SHALL NOT be issued a principal or administrator license or have a principal or administrator license renewed unless the state board determines that ~~such~~ THE person has received education and training PROVIDED OR approved by the department. ~~of education.~~

(b) A local board of education ~~shall have the authority~~ IS AUTHORIZED to evaluate the performance of the superintendent of the school district. The responsibility for conducting the performance evaluation of the superintendent ~~shall rest~~ RESTS exclusively with the local board of education.

(c) EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE SERVICES IS ENCOURAGED TO PROVIDE TRAINING TO MULTIPLE PERSONS TO SERVE AS EVALUATORS TO ENABLE A LICENSED PERSON BEING EVALUATED TO REQUEST AN ALTERNATIVE EVALUATOR.

(7) Every principal ~~shall~~ MUST be evaluated using multiple fair, transparent, timely, rigorous, and valid methods. The recommendations developed pursuant to this subsection (7) ~~shall~~ MUST require that ~~at least fifty~~ THIRTY percent of the evaluation is determined by the academic growth of the students enrolled in the principal's school, AND THE REMAINDER OF THE EVALUATION IS BASED ON THE PRINCIPAL'S ATTAINMENT OF THE QUALITY STANDARDS. For principals, the quality standards ~~shall~~ MUST include, but need not be limited to:

SECTION 4. Appropriation. (1) For the 2022-23 state fiscal year, \$452,973 is appropriated to the department of education. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

- (a) \$343,059 for educator effectiveness unit administration;
- (b) \$90,200 for information technology services; and
- (c) \$19,714 for legal services.

(2) For the 2022-23 state fiscal year, \$19,714 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of education under subsection (1)(c) of this section and is based on an assumption that the department of law will require an additional 0.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of education.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 24, 2022